



ELECTION NEWS

A special informational bulletin on the implementation of Michigan's new "consolidated elections" legislation

Michigan Department of State - Terri Lynn Land, Secretary of State

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With the August 8 primary rapidly approaching, this edition of *Election News* offers a number of reminders and points of information regarding the administration of the primary. The following topics are covered:

- Distribution of Election Materials for August 8 Primary
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- Declaration of Intent Requirement
- Documenting and Canvassing Write-In Votes
- Appointing Precinct Inspectors
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Distribution of Election Materials for August 8 Primary

The election materials needed for the administration of the August 8 primary which are supplied through the Department of State's Bureau of Elections fall into three categories: 1) those materials which will be automatically shipped to the county clerks throughout the state for distribution to the local clerks in their respective counties 2) those materials which the county clerks must order and 3) those materials that can be printed from the Department of State's website.

Automatic supply shipments: The election materials listed below will be automatically shipped to the county clerks throughout the state for distribution to the local clerks in their respective counties. (The following selected cities will receive direct shipments of the listed materials: Ann Arbor, Detroit, Flint, Grand Rapids, Lansing, Livonia and Warren.)

- **State precinct manuals (*Managing Your Precinct on Election Day*):** Two updated copies of the state precinct manual will be supplied for each precinct.

- **Voting instruction for display in the polls:** Two copies of the voting instructions prepared for display in the polls on August 8 will be supplied for each precinct. The poster complies with the requirements provided under MCL 168.668a as amended under PA 96 of 2004. (The voter information poster prepared for the August 8 primary can also be printed from the Bureau's website as explained below.)
- **Braille voting instructions:** One copy of the Braille voting instructions prepared for display in the polls on August 8 will be supplied for each precinct.
- **Tips on interacting with voters with disabilities (*Access to Voting*):** One copy of an informational brochure on interacting with voters with disabilities will be supplied for each precinct. Additional copies will be supplied for office use.
- **"Easy Twist" seals needed for AutoMARK Voter Assist Terminals:** The seals needed to secure the AutoMARK Voter Assist Terminals ("Easy Twist" seals) will be supplied for each precinct.

Materials that must be ordered: All county clerks have been supplied with an order form which can be used to obtain the following materials if needed. (An order form has also been supplied to the following selected cities: Ann Arbor, Detroit, Flint, Grand Rapids, Lansing, Livonia and Warren.)

- **Election seals:** The seals needed to secure optical scan tabulators, memory devices, ballots and official election documents will be shipped as requested on the order forms.
- **Voter instructions on cassette tape:** An audio version of the voting information must be available in each polling place. The audio version of the voter information distributed for the 2004 election cycle can be used for the August 8 primary. Needed copies of the cassette tape will be shipped as requested on the order forms.

Materials that can be printed from the Department's website: The following materials needed to administer the upcoming August 8 primary can be accessed on the Department of State's website <www.michigan.gov/sos>. To locate the information, click on "Elections in Michigan"; on the Elections in Michigan page, click on "Information for Election Administrators." The referenced documents are listed under the "Election Resources" section in the middle of the page.

- **AutoMARK Voter Assist Terminal materials:** The following materials developed to support the implementation of the AutoMARK Voter Assist Terminals can be accessed through the Department's website: "Accessible Voting Signage," "AutoMARK Election Inspector Guide," "AutoMARK Program Testing Procedures," "Sample Public Accuracy Test Notice," and "Voting System Preparation Certificate."
- **AutoMARK operation video:** A 10-minute video which demonstrates the various features of the AutoMARK Voter Assist Terminal is available on the Department's website in a variety of formats.

- **Voting instruction for display in the polls:** A minimum of two copies of the poster must be placed on display in each polling place. While a supply of the posters will be automatically shipped as explained above, the voting information posters can be printed from the Bureau's website if additional copies are desired or needed. (Legal sized paper is needed to print the poster.)
- **Spanish version of voting instructions:** Spanish voting instructions are required in Clyde Township (Allegan County) and Buena Vista Township (Saginaw County). While there are no legal requirements that Spanish voting instructions be posted anywhere else in the state, clerks are free to post the translated instructions in any precincts where they feel that they would be of benefit. Legal sized paper is needed to print the poster. (The translated voting instructions will be posted on the website as soon as the translation is complete.)
- **Provisional balloting materials:** Every polling place must be supplied with the materials needed to administer Michigan's provisional balloting process. The following materials can be accessed through the Department's website: the "Four Step Procedure Form," the "Notice to Voters Unable to Satisfy Identification Requirement and/or Residence Verification Requirement," the "Procedure for Handling 'Envelope' Ballot Returned to Clerk's Office," and the "Provisional Ballot Report Form." (The provisional balloting materials are also available through commercial form vendors.)
- **Identification requirement notice:** Every polling place must be supplied with the notice developed for voters subject to the federal identification requirement who are unable to satisfy the requirement when offering to vote.

Handling Federal Post Card Application (FPCA) Forms

FPCA forms submitted for the 2004 election cycle must be honored for the 2006 election cycle. See below for further information.

- The Federal Post Card Application (FPCA) is a postage-free absent voter ballot application produced and distributed by the federal government. The following persons are eligible to use an FPCA to request an absent voter ballot:
 - 1.) Members of the Armed Forces and their spouses and dependents.
 - 2.) Members of the Merchant Marine and their spouses and dependents.
 - 3.) U.S. citizens temporarily living or traveling outside of the territorial limits of the United States.
- A person who is eligible to use an FPCA to obtain an absent voter ballot may register up to 8:00 p.m. on the day of the election; *the 30-day registration deadline is waived*. If an individual submitting an FPCA is not registered to vote, the FPCA can be accepted as the voter's registration application.

- An FPCA may be used by one person only; if a husband and wife or several family members who are eligible to use an FPCA wish to obtain absent voter ballots, each must complete a separate FPCA form.
- The Help America Vote Act (HAVA) prohibits the imposition of any restriction on the early submission of absentee ballot requests for federal elections by absent uniformed services voters. With the new HAVA stipulation, city and township clerks are no longer permitted to reject absent voter ballot requests submitted for federal elections by absent uniformed services voters more than 75 days prior to the election.
- HAVA requires local election officials to provide return notification in any instance where a voter registration application or absent voter ballot application submitted by an absent uniformed services voter or an overseas voter is rejected. The notification can be issued by any convenient means (letter, fax or email).
- HAVA stipulates that a Federal Post Card Application (FPCA) used to request absent voter ballots must be honored “through the next 2 regularly scheduled general elections for Federal office....” As a consequence, an FPCA form submitted for the August 3, 2004 primary or the November 2, 2004 general election must be honored for the August 8, 2006 primary and the November 7, 2006 general election. As the new HAVA stipulation only impacts elections involving federal offices, an absent uniformed services voter or overseas voter who wishes to participate in a local election must submit additional absentee ballot requests for the local elections of interest.
- HAVA requires the Federal Voting Assistance Program office to prescribe a “standard oath” for use with any document submitted by voters under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The standard oath prescribed by the Federal Voting Assistance Program Office must be used in place of the oath prescribed under Michigan election law when sending an absent voter ballot to an absent uniformed services voter or overseas voter. (The wording of the oath was included in the HAVA compliance memo issued through the Bureau on June 16, 2004.) The oath can be placed on the absent voter ballot return envelope with a sticker if necessary. The newly prescribed oath does *not* replace the wording of the affidavit which must be submitted by Michigan citizens who are temporarily living or traveling outside of the territorial limits of the United States (“Affidavit for Persons Temporarily Residing Outside of the United States”).
- When sending absent voter ballots to FPCA applicants, the procedures followed depend on the status of the elector submitting the FPCA.

Armed Forces, Merchant Marine, spouses and dependents: Upon the receipt of the FPCA, an absent voter ballot is immediately forwarded to the applicant. As noted above, if the applicant is not registered, the FPCA is accepted as the voter’s registration application. An oath is not required.

Citizens temporarily outside U.S.: These procedures differ from the procedures detailed above as a U.S. citizen who is temporarily living or traveling outside of the territorial limits of the United States must submit either an “Affidavit for Persons Temporarily Residing

Outside of the United States” or execute the FPCA under oath to obtain an absent voter ballot.

If the applicant executed the oath on the FPCA form or submitted the above referenced affidavit, an absent voter ballot is immediately sent.

If the applicant did not execute the oath on the FPCA form or submit the above referenced affidavit, the affidavit form is sent to the applicant. An absent voter ballot is immediately sent to the applicant as soon as the affidavit is returned.

The affidavit requirement is provided under Michigan election law, MCL 168.759a. A recommended affidavit form which can be photocopied as needed is provided with this newsletter. As noted above, if the applicant is not registered, the FPCA is accepted as the voter’s registration application.

- A qualified elector who is overseas and who resided in Michigan immediately before leaving the United States may register in the city or township where his or her residence was located – even if an established place of residence is no longer maintained in the city or township.
- There is no limit to the length of time a person may reside or travel outside of the territorial limits of the United States and still vote by absent voter ballot. As long as the person remains qualified to vote and properly applies for ballots, the ballot requests must be honored.
- If a member of the Armed Forces or Merchant Marine or a spouse or dependent of a member of the Armed Forces or Merchant Marine applies for an absent voter ballot in a letter instead of an FPCA, immediately send the requested ballot if the applicant is registered. If the applicant is not registered, immediately send the requested ballot and registration forms. If the registration forms and the ballot are returned by 8:00 p.m. on election night, the ballot can be counted.
- If a private citizen temporarily residing or traveling outside of the territorial limits of the United States does not use an FPCA to apply for an absent voter ballot, an “Affidavit for Persons Temporarily Residing Outside of the United States” must be submitted by the voter before an absent voter ballot can be sent. If the affidavit is not enclosed with the letter request, a blank affidavit form is sent or faxed to the person for completion. (Registration forms must also be sent if the person is not registered.) As soon as the completed affidavit is returned by the voter, the absent voter ballot is mailed. The person must then return the voted ballot and completed registration forms (if required) before 8:00 p.m. on the date of the election.

Declaration of Intent Requirement

- The city or township clerk is responsible for notifying the appropriate precinct boards of any Declaration of Intent forms submitted by write-in candidates before the election. The names of the declared write-in candidates must be delivered to the precinct boards no later than the close of the polls. A list of the write-in candidates’ names or photocopies of the Declaration

of Intent forms can be used to notify the precinct boards of the declared write-in candidates. (If a list is used, it must include the office each write-in candidate is seeking and the candidate's party affiliation if the candidate is seeking nomination to a partisan office appearing on the primary ballot.)

- As a candidate who wishes to seek a precinct delegate position with write-in votes is permitted to file a Declaration of Intent at the polls on August 8, all precinct boards must be supplied with a quantity of blank Declaration of Intent forms. The precinct boards should be prepared to distribute the form to anyone who indicates a desire to seek a precinct delegate position with write-in votes. After the individual completes the form, the precinct board member handling the transaction should sign the form at the bottom and supply a copy of the form to the candidate as a receipt; an oath is not required. The precinct board must carefully maintain any Declaration of Intent forms submitted by precinct delegate candidates at the polls on the day of the August primary and take them into consideration when tallying the write-in votes cast at the election. The forms must be delivered to the city or township clerk with the precinct's supplies at the end of the day.
- It merits emphasis that individuals who wish to seek precinct delegate positions with write-in votes are the only write-in candidates who are permitted to file a Declaration of Intent form at the polls; this opportunity is not extended to any other write-in candidates.

Documenting and Canvassing Write-In Votes

- A write-in vote cast for an individual who has not filed a Declaration of Intent does not count and must not be recorded by the precinct board. Similarly, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the office for which the write-in vote was cast corresponds to the office identified on the Declaration of Intent; if a partisan primary, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the office and party correspond. Write-in votes which do not count for the above reasons are not considered when determining whether an "over vote" has occurred or whether a "crossover" vote has been cast at a partisan primary.

As an exception, the Declaration of Intent requirement is waived if a candidate appearing on the ballot for the office involved dies or is otherwise disqualified on or after the Wednesday immediately preceding the election. If the waiver is invoked, all write-in votes cast for the office must be counted including any write-in votes cast for candidates who have not filed a Declaration of Intent. (The waiver does not apply to precinct delegate positions.)

- Write-in votes which show name variations and spellings which do not match the Declaration of Intent form are acceptable. It merits note that it is the precinct board's responsibility to record all valid write-in votes exactly as they were cast preserving any name variations and/or misspellings which may appear.

Example: John A. Smith - State Representative - Democrat - 16 votes.
Jon Smith - State Representative - Democrat - 2 votes.
J.A. Smith - State Representative - Democrat - 1 vote.

- It is the Board of County Canvassers' responsibility to review all write-in votes and determine how they are to be counted. The Board may accept variations in the spelling of a write-in candidate's name if the manner in which the voter intended his or her vote to be cast is clear.
- A write-in candidate seeking nomination to a partisan office on the August 8 primary ballot is nominated if he or she 1) receives more votes than any other candidate seeking the position and 2) meets a vote threshold formula provided under Michigan election law, MCL 168.582. Under the vote threshold formula, the number of votes received by the write-in candidate must equal the greater of the following:
 - 1) 10 votes.
 - 2) .15 of 1% (.0015) of the total population, as reflected by the last official federal census, of the district represented by the office sought by the write-in candidate.
 - 3) **Apply following only if write-in candidate seeks nomination to an office for which only one candidate is to be elected:** 5% (.05) of the greatest number of votes cast under the write-in candidate's party for all candidates running for any office within the district represented by the office sought by the write-in candidate.
 - 4) **Apply following only if write-in candidate seeks nomination to an office for which more than one candidate is to be elected:** 5% (.05) of the greatest number of votes cast under either party on the ballot for any candidate seeking the same office sought by the write-in candidate.

Appointing Precinct Inspectors

- An election inspector must be a registered voter of the county in which he or she is appointed to serve. To accommodate jurisdictions that cross county boundaries, Michigan election law provides that an individual registered to vote in a local unit of government that falls in more than one county may be appointed to serve on any precinct board established within the local unit of government.
- Election inspector appointments must be handled by the local board of election commissioners at least 21 days but not more than 40 days before each election. The appointments cannot be made less than five days before the date set for holding an election inspector instructional session. A city or township that is not handling its election inspector appointments through its election commission is advised to take immediate action to bring its appointment procedures into compliance with the law.
- Not later than 2 business days following the appointment of election inspectors for an election scheduled to nominate or elect candidates to a federal or state office, the election commission is required to notify the county chair of each major political party of the "names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed." The notification must be made by "certified mail, personal service, or electronic transmission capable of determining date of receipt."

- At least three election inspectors must be appointed to serve in each precinct; additional inspectors must be appointed if needed to properly conduct the election. The election commission must designate one of the election inspectors appointed to each board as “chairperson” of the board. The first three inspectors appointed to serve on a precinct board must be 18 years of age or older; any additional precinct inspectors appointed to the board may be 16 or 17 years of age. A precinct inspector appointee must be at least 18 years of age to serve as the chairperson of the precinct board.
- The election commission is required to appoint “at least 1 election inspector for each major political party.” In addition, the election commission is required to politically balance each precinct board “as nearly as possible.” A “major political party” is defined as “each of the 2 political parties whose candidates for the office of secretary of state received the highest and second highest number of votes at the immediately preceding general election in which a secretary of state was elected.” (Current “major political parties” are the Republican Party and the Democratic Party.) The election commission may appoint election inspector applicants who have expressed a preference for a minor political party at its discretion.
- The election commission is prohibited from knowingly appointing an individual to serve as an election inspector if the person has been convicted of a felony or election crime or if any member of the person’s “immediate family” is a candidate for nomination or election to any office at the election. (“Immediate family” is defined as the individual’s father, mother, son, daughter, brother, sister, spouse and any relative residing in the same household with that person.) As an exception, a precinct delegate candidate may serve as an election inspector in any precinct other than the precinct in which he or she resides.
- An election commission is further prohibited from appointing a person as an election inspector “if that person declares a political party preference for a political party but is a known active advocate of another political party. A “known active advocate” of another political party is defined to mean a person who 1) is a delegate to the convention or an officer of another party 2) is affiliated with another party through an elected or appointed government position or 3) has made documented public statements (i.e., “statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant”) specifically supporting by name another political party or its candidates in the same calendar year as the election for which the appointment is being made.

Polling Place Accessibility; Grant Program Extended

Any and all buildings used for polling place locations must meet the accessibility requirements set forth under the Americans with Disabilities Act (ADA). If a building used for a polling place location cannot be made accessible as stipulated under the ADA, the polling place must be moved to a building which meets the ADA accessibility requirements.

In April 2005, the Department introduced the Polling Place Accessibility Improvement Program – a grant program which Michigan’s cities and townships can use to recover the costs they incur in making their polling places ADA compliant. The grant program is funded through the Help America Vote Act of 2002 (Title II, Section 261; CFDA 93.617). The Department of State’s Bureau of Elections is responsible for overseeing the grant process.

As there are still a number of jurisdictions that could benefit from the grant program, the deadline for applying for grant funds under the program has been extended to July 31, 2006. Information on the extension of the grant program has been mailed to all cities and townships in the state. City and township clerks who have any questions regarding the grant program extension are encouraged to contact Michigan Department of State's Bureau of Elections.

AFFIDAVIT
For Persons Temporarily
Outside of the United States

I hereby swear or affirm that the statements made herein are true. I am a citizen of the United States; at the time I departed from the United States, I had lived in the State of Michigan at least 30 days and resided in _____,
(City or Township)

Michigan; I have not relinquished my citizenship or established residence for voting in any other place.

I was last registered in:

(City or Township) (County) (State)

(Signature of Applicant)

(Present Address Outside United States)

Subscribed and sworn to before me on

_____, 20____

(Signature of Officer Accepting Affidavit)

(Title of Officer)